

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC.,

Plaintiff/Counter-
Defendant,

v.

ILLUMINA, INC.,

Defendant/Counter-
Plaintiff.

C.A. No. 04-901-JJF

**NOTICE OF DEPOSITION OF ILLUMINA, INC.
PURSUANT TO FED. R. CIV. P. 30(b)(6)**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Affymetrix, Inc. (“Affymetrix”), by and through its attorneys, will take the deposition of Illumina, Inc. (“Illumina”) by oral examination at the Hilton San Diego Airport/Harbor Island Hotel, 1960 Harbor Island Drive, San Diego, California, 92101. Illumina is directed, pursuant to Federal Rule of Civil Procedure 30(b)(6), to designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf with respect to the matters set forth in Attachment A.

The deposition will commence at 9:30 a.m. on February 23, 2006. The deposition will be recorded stenographically, with the capacity to provide instant visual display or playback of the testimony, and by video by an officer authorized to administer oaths. All counsel are invited to attend and examine the witness.

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February 7, 2006

ATTACHMENT A

DEFINITIONS

Affymetrix hereby incorporates by reference the Definitions included in Affymetrix, Inc.'s First Set of Requests for Production of Documents, served on February 8, 2005, Affymetrix, Inc.'s Second Set of Requests for Production of Documents, served on March 30, 2005, and Affymetrix, Inc.'s Third Set of Requests for Production of Documents, served on July 20, 2005.

AREAS OF TESTIMONY

1. The live data files produced under bates numbers IAFP00641506, IAFP00641478, and IAFP00641507, including: a) who prepared the files; b) how the files were prepared; c) the content of the files; d) the meaning of the codes in the files; e) the entries in the files; f) the import of data that is missing or ambiguous in the files; g) how the calculations in the files are computed; h) how the revenue reflected in the files was recognized by Illumina; i) whether and how product rentals, freight, returns, and discounts are included in the files; j) the accuracy of the information in the files.

2. The live data files produced under bates numbers IAFP00643264 – IAFP0643270 including a) who prepared the files; b) how the files were prepared; c) the content of the files; d) the meaning of the codes in the files; e) the entries in the files; f) the import of data that is missing or ambiguous in the files; g) how the calculations in the files are computed; h) how the revenue reflected in the files was recognized by Illumina; i) whether and how product rentals, freight, returns, and discounts are included in the files; j) the accuracy of the information in the files.

3. For each of the data files produced by Illumina that are listed in numbers one and two above, whether the revenues publicly reported by Illumina for fiscal years 2002, 2003, 2004, and 2005 are the same as the revenues reflected in the data files; or, if there are discrepancies between the data files and Illumina's publicly reported revenues, what discrepancies exist and why.

4. For each of the data files produced by Illumina that are listed in number one, above, whether the revenues reported in financial documents produced to Affymetrix (including IAFP 00597807-7817; IAFP 00544980-00545091; IAFP 533985; IAFP00643264 – IAFP0643270) are the same as the revenues reflected in the data files; or, if the revenues in the financial documents are not same as those in the data files, what discrepancies exist and why.

5. For each of the live data files that are listed in number one, above, how the invoice level entries in the data file can be correlated to the information in Illumina's Systems, Products and Services Catalogues, including whether and how the product names, product descriptions, item numbers, product numbers, JDE numbers, catalogue numbers and other similar codes that appear in the data files correspond to the catalogues.

6. For each of the live data files that are listed in numbers one and two, above, whether and how one can use the files to ascertain the following: a) Illumina's total monthly, quarterly, and annual revenues by product and/or service for 2002, 2003, 2004, and 2005; b) Illumina's actual sale prices per product and/or service at an invoice level and on a monthly, quarterly, and annual basis; and c) Illumina's cost of goods sold per product or product line on a monthly, quarterly, and annual basis; and, as to each of

(a), (b) and (c), if one can not ascertain the requested information from the data files that were produced, what additional documents and information are need to do so.

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2006, I electronically filed the foregoing document using CM/ECF which will send notification of such filing(s) to the following:

Richard K. Herrmann
Morris, James, Hitchens & Williams LLP

I also certify that copies were caused to be served on February 7, 2006 upon the following in the manner indicated:

BY HAND

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BY FACSIMILE

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